

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

BARRY L. BROOKINS,

Plaintiff,

v.

FNU RENTERIA,

Defendant.

) Case No.: 1:21-cv-1809 JLT HBK
)
) ORDER ADOPTING THE FINDINGS AND
) RECOMMENDATION DENYING PLAINTIFF'S
) MOTIONS TO PROCEED IN FORMA PAUPERS
)
) (Docs. 2, 7, 9)
)
)
)
)

The magistrate judge issued Findings and Recommendations, recommending that Plaintiff's motions to proceed IFP be denied because Plaintiff has at least three cases dismissed that qualify as a strike under Ninth Circuit caselaw prior to filing his lawsuit on December 27, 2021. (Doc. 9 at 5-6.) Therefore, the magistrate judge found Plaintiff is subject to the three strikes bar under 28 U.S.C. § 1915(g). (*Id.*) The magistrate judge also found the allegations in Plaintiff's complaint do not satisfy the "imminent danger of serious physical injury" exception to Section 1915(g), even when liberally construing Plaintiff's complaint. (*Id.* at 6.)

The Findings and Recommendations served on Plaintiff contained a notice that any objections to the were due within fourteen days. (Doc. 9 at 7.) Plaintiff was also "advised that failure to file objections within the specified time may result in the waiver of rights on appeal." (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014); citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991).) Plaintiff has not filed an objection, and the time to do so has expired.

1 According to 28 U.S.C. § 636(b)(1)(C), the Court conducted a *de novo* review of this case.
2 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations to be
3 supported by the record and by proper analysis. Thus, the Court **ORDERS**:

- 4 1. The Findings and Recommendations issued on January 19, 2022 (Doc. 9) are adopted.
- 5 2. Plaintiff's motions to proceed *in forma pauperis* (Docs. 2, 7) are denied.
- 6 3. Within 30 days from the date of service of this order, Plaintiff **SHALL** pay in full the
7 \$402.00 filing fee if he wishes to proceed with his action.
- 8 4. Plaintiff is advised that failure to pay the required filing fee as ordered will result in the
9 dismissal of this action without prejudice.

10
11 IT IS SO ORDERED.

12 Dated: April 29, 2022


UNITED STATES DISTRICT JUDGE